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ABSTRACT

This document enumerates the minimun standards which have been in effect since May 1, 1985 for all Texas child care facilities offering educational programs in one or more grades for children ages 5 through 13. The following areas of concern are covered in the seven chapters: (1) organization and administration (in general, and of enrollment and records); (2) personnel (director and staff qualifications and responsibilities, training, and staff-child ratio); (3) buildings, grounds, and equipment (space, furnishings, equipment, toilet facilities, and use of facility); (4) fire, sanitation, and safety; (5) physical health (health requirements for children, illness or injury, medication, emergency phone numbers, and animals); (6) food service and nutrition; and (7) activities (operation, discipline and guidance, children with need for special day care, water activities, and transportation). A glossary follows the text of the standards. The first two appendixes present the Texas Human Resources code, Chapter 42, Regulations of Child-Care Facilities; and excerpts from the Texas Family Code. The remaining appendixes are on the following topics: child care facility immunization requirements; alternatives to physical punishment; communicable diseases; sanitization procedures for food service equipment; and criminal offenses from the Texas Penal Code. (SKC)

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Minimum Standards

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May 1985

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February 8, 1985

Dear Licensee:

The following are the revised minimum standards which are effective May 1, 1985.

The State Advisory Committee on Child Care Facilities was established by the child care licensing law. It is composed of parents, guardians, or custodians of children using child care facilities; members of child advocacy groups; operators of child care facilities; and experts in various professional fields related to child care and development. The Advisory Committee members carefully studied drafts of the minimum standards that Licensing Branch staff of the Texas Department of Human Resources submitted for their consideration. Based on their recommendations and the directions of the Texas Board of Human Resources, the proposed revisions to the standards were published in the **Texas Register.**

All sets of standards went through a 60-day public review period during August and September of 1984 to allow interested individuals to comment and make suggestions on them.

Public hearings on the proposed minimum standards were held in Austin, San Antonio, Corpus Christi, McAllen, Tyler, Nacogdoches, Beaumont, Houston, Arlington, Wichita Falls, Abilene, Waco, Lubbock, Amarillo, Midland, and El Paso. Members of the Advisory Committee were present at the public hearings.

The following were members of the State Advisory Committee on Child Care Facilities:

Dr. Wilbur E. Crenwelge, Fredericksburg
Mr. Joe E. Fogle, Dallas
Ms. Sue Gainer, Dallas
Mr. Hernan Gonzales, Alamo
Dr. A. J. Green, Jr., Beeville
Ms. Rose Ann Grissett, Austin
Ms. Pat Henson, San Antonio
Ms. Gail Laubenthal, Wichita Falls
Mr. Buddy Owens, Mission
Ms. Harriet Simburger, Dickinson
Dr. Tom Slatton, Amarillo
Mr. Alan Sowders, Quinlan
Mr. David C. Winship, Houston
Mr. Charles Campise, Driftwood
Mr. Russell Herrington, Odessa
Mr. Charles E. Long, Tyler
Ms. Martha McDonald, Houston
Ms. Sherry Workman, Austin

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The revised standards are the result of recommendations from parents, day care providers, child advocates, and department staff. They reflect the common interest of the department and Texas citizens in reducing the risk of harm to children in out-of-home care and in promoting the health, safety, and well-being of these children while they are in care.

Marlin W. Johnston

Marlin W. Johnston

MWJ:lm

Attachment

MINIMUM STANDARDS FOR SCHOOLS: GRADES KINDERGARTEN AND ABOVE

A school, grades kindergarten and above, is a child care facility offering an educational program in one or more grades for children ages 5 through 13. A school operates only during the customary public school day.

MINIMUM STANDARDS FOR SCHOOLS: GRADES KINDERGARTEN AND ABOVE

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Minimum Standards

Minimum standards for regulating child care facilities are developed by the Texas Department of Human Resources (DHR) with the assistance of child care providers, parents, lawyers, doctors, child care professionals, and experts in fire, sanitation, and safety. The child care licensing law sets guidelines for what must be included in the standards and requires that minimum standards be reviewed and commented on by the State Advisory Committee on Child Care Facilities. The licensing law requires that proposed standards be distributed to providers for a 60-day review and comment period before adopting the proposed standards as rules. The Administrative Procedure and Texas Register Act also requires that proposed standards be published for a public comment period before adoption as rules. The department considers recommendations from providers, other interested groups, and individuals in formulating the final draft, which is filed as rules with the Secretary of State. Standards are a product of input from many people and groups and are designed to reflect what the citizens of Texas consider reasonable and minimum.

Exceptions to Minimum Standards

The child care licensing law authorizes the department to grant waivers and variances for specific standards. A waiver is official permission not to meet a specific standard. It is granted only for economic reasons. A variance is official permission to meet the intent of a specific standard in a way other than as stated in the standard. It may be granted for good and just cause when a particular standard is not applicable for a facility.

A facility may request a waiver or variance when applying for a license, certificate, or registration or during the time the facility is regulated. The child care facility's licensing representative receives the request and makes a recommendation about it to state office staff. State office staff members make the decision on the request for a waiver or variance primarily by considering the risk to the health, safety, and well-being of the children in care.

Informal Administrative Reviews

An applicant, a licensee, a certificate holder, or a person registered with the department has the right to request an informal review if he disagrees with a licensing representative's decision. Child care providers are encouraged to first talk over the situation with the licensing representative. If this does not solve the problem, a day care provider may contact the day care licensing supervisor or the program director for day care licensing in the area. The licensing representative provides the name, address, and telephone number of the person to contact.

The child care provider may request the review orally or in writing. He explains the disagreement and tells the department if he plans to have an attorney present. A member of the department's licensing staff conducts the review. The reviewer examines the facts and then makes a recommendation to uphold or change the licensing representative's decision. The child care provider is promptly informed of the decision.

Appeals and Court Challenges

If the department denies an application or revokes a license, certification, or registration, the provider is notified in writing what standards or provisions of the law are being violated. He is given information about how to request an appeal. The child care provider may request an appeal of the decision within 30 days of notification.

If a request for appeal is granted, the assistant commissioner for licensing appoints an advisory review board which includes people who hold the same kind of license as the person appealing the denial or revocation. A hearing is also scheduled.

After an appeal hearing, the advisory review board makes recommendations to the assistant commissioner for licensing. A committee reviews the materials and makes a decision on the appeal. The committee is composed of the assistant commissioner for licensing, a person from the Licensing Branch who develops standards, and a department representative in the region where the facility is located.

If a person who appeals a denial or revocation does not agree with the decision on the appeal, he may challenge it within 30 days after notification of the decision. This is done by filing suit in a district court in Travis County or in the county where the facility is located.

1100 (§81.301) Organization

1. A school must have a governing body (see Glossary) that is responsible for its policies. The governing body must assure that the school operates in compliance with the "Minimum Standards for Schools: Grades Kindergarten and Above" and the child care licensing law, Chapter 42, Human Resources Code (see Appendix I). The governing body must inform the department of the name and mailing address of the sole proprietor, the partners, or its chief executive officer.

2. A corporation operating a school must make one of the following available to the department for review:

   a. the Articles of Incorporation,

   b. the Certificate of Incorporation, or

   c. a copy of the Certificate of Authority (for an out-of-state corporation).

3. A corporation or church must make available to the department a copy of the resolution authorizing the operation of the school unless the authorization is included in the document required in item 2.

4. The governing body must notify the department and apply for a new license before changing the location of the school.

5. The governing body must notify the department in writing of

   a. any planned addition or reduction in indoor or outdoor space before using the changed area, and

   b. the addition of a swimming or a fixed wading pool before using the pool.

6. The governing body must notify the department by telephone or in writing before, if possible, or within five workdays of any occurrence affecting the operation of the school. This includes, but is not limited to, the following:

   a. change of the governing body or ownership,

   b. change of school director,

   c. change of board chairman of a corporate school or other chief executive officer of the governing body,

d. change of governing body designee (see Glossary),

e. going out of business,

f. change in hours of operation, and

g. change in age range of children in care.

If any change would violate the restrictions on the license, the governing body must request that the license be amended. It must wait until the department changes the restriction before making the change in operation.

1200 (§81.302) General Administration

1. The school must display the following in a prominent place where staff, parents, and others may review them:

   a. its license;

   b. the letter or compliance evaluation form that the licensing representative provided at or following the most recent inspection or investigation of the school (if the notification includes a requirement for posting);

   c. current menus; and

   d. a department form stating that the items required in standard 1200, 2 are available.

2. The school must have available for review on request

   a. the letter or compliance evaluation form that the licensing representative provided at or following the most recent inspection or investigation of the school (if the notification does not include a requirement for posting);

   b. a current copy of the department's "Minimum Standards for Schools: Grades Kindergarten and Above"; and

   c. the school's most recent

      (1) fire inspection report,

      (2) sanitation inspection report, and

      (3) gas pipe inspection report.

3. The school must immediately notify the department of any serious occurrences affecting its operation. These include, but are not limited to, the following:

   a. fire, and

   b. death, serious accident, serious injury, or serious communicable disease of a child or staff.

4. The school must report suspected child abuse or neglect as required by the Texas Family Code (see Appendix II) to

   a. the nearest DHR child protective services office, and

   b. a local or state law enforcement agency.

5. The school must ensure that a person who is indicted or the subject of an official criminal complaint accepted by a county or district attorney alleging he committed any of the offenses listed below must not be at the school while children are in school and must not have contact with the children until the charges are resolved. The offenses (see Appendix VII) are as follows:

   a. a felony or misdemeanor classified as an offense against the person or family,

   b. a felony or misdemeanor classified as public indecency, and

   c. a felony violation of any law intended to control the possession or distribution of any substance included as a controlled substance in the Texas Controlled Substances Act.

6. The school must notify the department of an indictment or complaint within 24 hours or on the next workday.

1300 (§81.303) Enrollment

1. Before a child is enrolled, the school must inform parents about the school's activities and policies, including curriculum and educational goals.

2. The school must obtain enrollment information for each child before admission. The school must keep this information while the child is in school. The parent must sign a form that contains the following:

   a. the child's name, birth date, home address, and home telephone number;

   b. date of admission (see Glossary);

   c. name and address of parent(s) and telephone numbers at which parent(s) can be reached while the child is in school;

   d. the names of the people to whom the child may be released;

e. hours the child will be in school;

f. name, address, and telephone number of the child's physician;

g. a statement of the child's special problems or needs. This includes allergy, existing illness, previous serious illness and injuries, hospitalizations during the past 12 months, and any medication prescribed for long-term, continuous use;

h. transportation permission, if transportation is provided;

i. permission for participation in water activities, if any; and

j. emergency medical authorization.

3. The school must

a. give the parent of each child in school a copy of the department booklet, "A Parent's Guide to Day Care," and

b. keep on file a copy of the receipt showing that the parent was given the booklet and discussed it with the school.

4. The school must not racially discriminate against any child.

1400 (§81.304) Records

1. The school must have records of daily attendance of children and staff for the previous three months. The hours staff worked must be recorded.

2. The school must maintain personnel records for all staff and ensure that each staff's record includes

a. the date the staff began work at the school;

b. a statement from staff providing information about all felony and misdemeanor convictions and about all pending criminal charges, including deferred adjudication;

c. a record of a tuberculosis examination no earlier than 12 months before beginning the position; and

d. A copy of an application or other document showing that staff meets the requirements in standard 2300, 1, 2, or 3.

3. All required records must be available at the school for the department to inspect during hours of operation.

2100 (§81.305) Director Qualifications

1. The on-site director of a school must hav a bachelor's degree from an accredited college or university with at least 12 credit hours of education or child development. The director also must have had two years of experience in teaching or in school administration or management. Documentation showing how the director meets the qualifications must be available to the department.

A person who was director of a school on May 1, 1985, has four years from that date to comply if he remains in the same position.

2. No one may serve as director of a school who has been convicted of any of the following offenses (see Appendix VII):

   a. a felony or misdemeanor classified as an offense against the person or family,

   b. a felony or misdemeanor classified as public indecency, or

   c. a felony violation of any law intended to control the possession or distribution of any substance included as a controlled substance in the Texas Controlled Substances Act.

3. The director must send the department the following on a department form:

   a. a record of training and experience;

   b. information about all felony and misdemeanor convictions; and

   c. information about all pending criminal charges, including deferred adjudication.

2200 (§81.306) Director Responsibilities

1. An on-site director must administer the school's daily operation in compliance with minimum standards. If the director is absent from the school, an adult staff must be designated in charge and given the authority to administer the school. During the director's absence, the designated person must administer the school in compliance with minimum standards.

2. The director must provide the staff's assignments and supervise the staff.

2300 (§81.307) Staff Qualifications and Responsibilities

1. Staff teaching first grade and above who are counted in the staff-child ratio must have a bachelor's degree from an accredited college or university or a valid teaching certificate.

   a. Proof of meeting the educational requirement must be available to the department.

   b. A person who was teaching first grade or above on May 1, 1985, has two years from that date to comply if he remains in the same position.

2. Staff who teach kindergarten must have a bachelor's degree from an accredited college or university, a valid teaching certificate, a Child Development Associate credential, or an associate of arts degree in child development or a closely related area.

   a. Proof of meeting the educational requirement must be available to the department.

   b. A person who was teaching kindergarten on May 1, 1985, has two years from that date to comply if he remains in the same position.

3. Staff may be assigned as aides to classroom teachers and may be counted in the staff-child ratio.

   a. Aides must be at least 18 years old. They must have a high school diploma or its equivalent.

   b. Aides must work in the same room with and be supervised by classroom teachers.

4. Staff must show competency, good judgment, and self-control in working with children.

5. Staff must relate to the children with courtesy, respect, acceptance, and patience.

6. Effective January 1, 1986, a person certified in first aid and a person certified in cardiopulmonary resuscitation of children must be present at the school during all hours of operation. The school must have current certificates attesting to the training.

7. People at the school must not abuse, neglect, or sexually molest children (see Glossary).

8. A person convicted of any of the following offenses (see Appendix VII) must not be at the school when children are present and must not serve in any capacity where there is contact with children:

   a. a felony or misdemeanor classified as an offense against the person or the family,

   b. a felony or misdemeanor classified as public indecency, or

   c. a felony violation of any law intended to control the possession or distribution of any substance included as a controlled substance in the Texas Controlled Substances Act.

9. People whose behavior or health appears to endanger the health, safety, or well-being of children must not be at the school.

10. People must not smoke in the presence of children or consume alcohol when children are at the school. People who appear to be under the influence of alcohol or other drugs must not be in the school when children are present.

11. Staff must supervise (see Supervision in Glossary) children at all times.

12. People working with children and counted in the staff-child ratio must be free from other duties except those directly involving the care and supervision of children. These responsibilities include keeping the group's area clean.

Administrative and clerical functions (see Glossary) that take the staff's attention from the children, meal preparation, or janitorial duties must not be included in responsibilities of staff while counted in the staff-child ratio.

13. The school must ensure that children are not out of control.

14. If a parent calls to authorize the emergency release of a child, the school must verify that the caller is actually the parent.

15. The school must have and follow a plan to verify the identity of a person authorized to pick up a child but not known to the staff. For example: view the picture identification on the person's driver's license or DPS identification card and record the person's name and card number. The school keeps this identifying information for 24 hours.

16. If one staff leaves and another staff is given responsibility for the children, the staff leaving must provide the incoming staff with

    a. any significant information he has about a child, and

    b. a list of children present in the group. This may be the class roll sheet.

2400 (§81.308) Training

1. The school must orient new staff members in understanding children and in job expectations when they begin work. The school must have documentation that each staff was oriented in the following:

    a. the requirements in the "Minimum Standards for Schools: Grades Kindergarten and Above" and the licensing law;

    b. the school's policies, including discipline, guidance, and release of children;

c. recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure for reporting these; and

d. procedures to follow in handling emergencies (after the school has explored its environment for external hazards and formulated its training plan accordingly). Emergencies may include, but are not limited to, fire, explosion, tornado, toxic fume, or other chemical release.

2. When volunteers are counted in the staff-child ratio for special activities only, the school must

   a. ensure that each volunteer receives relevant orientation, and

   b. obtain from each volunteer the statement required in standard 1400, 2.b.

3. Staff must participate yearly in at least 15 clock hours of training (see Glossary) in understanding children and improving job performance.

The director must participate yearly in at least 20 clock hours of training. A least six clock hours must be in staff supervision or management and at least six clock hours must be in child development or childhood education.

The training must be documented in the staff's record at the school. A year is defined as 12 months from the date of employment.

2500 (§81.309) Staff-Child Ratio

1. In a school, the number of children supervised by one staff must not exceed the following:

Grade	Number of Children
Kindergarten	24
1st — 3rd	28
4th and above	32

   a. Up to 60 children may be in regular classroom activities as long as the staff-child ratio is maintained.

   b. The school may combine more than 60 children for joint activities of limited duration as long as the staff-child ratio is maintained.

   c. In determining the staff-child ratio, the following apply:

      (1) The school must use the developmental or emotional age of mentally retarded or emotionally disturbed children as determined by a qualified consultant (see Consultation Services for Children with Need for Special Care in Glossary).

      (2) The school must maintain staff-child ratios as stated in standard 2500, 1 except during water activities and field trips (see section 7000).

2. Each child must have a staff who is responsible for the child and who is aware of details of the child's habits, interests, and any special problems. Staff must know the child's name and have information showing his age.

BUILDING, GROUNDS, AND EQUIPMENT

3100 (§81.310) Space

1. There must be at least 20 square feet of indoor activity space, measured wall-to-wall on the inside, for each child in the school. The measurement does not include single-use areas (see Glossary).

2. The school must have an outdoor play space of at least 80 square feet for each child using the area at one time.

3. All outdoor play areas regularly used by children must be accessible by a safe route.

3200 (§81.311) Furnishings

The school must ensure the following:

1. a working telephone with a listed number.

2. children have storage available for personal belongings.

3. enough chairs and tables or desks to meet the children's needs.

3300 (§81.312) Equipment

The school must provide indoor and outdoor equipment and materials to support the instructional program and to meet the stated educational goals. The school must ensure that materials are appropriate to the developmental levels and individual interests of the children. There must be a sufficient amount of equipment and materials to avoid excessive competition among the children or long waits for materials.

3400 (§81.313) Toilet Facilities

1. The school must have inside toilets that are quickly available, convenient, and safe. Children must have privacy in the use of the bathroom as needed.

2. There must be one flush toilet for every 20 children. Urinals may be counted in the ratio of children to toilets, but they must not exceed 50% of the total number of toilets. Bathrooms that contain urinals must also have flush toilets.

3. There must be one lavatory for every 20 children.

3500 (§81.314) Use of Facility

If programs not subject to regulation use the same facilities, the school must not use any space at the same time another program is using that space.

4100 (§81.315) Fire

1. In case of fire or danger of fire or explosion, the school's first responsibility is to evacuate the children to a designated safe area.

   a. The school must supervise children until the fire department determines the building is safe to re-enter, the children are picked up by their families, or the customary school day ends.

   b. The school must contact the fire department in case of fire or danger of fire, explosion, toxic fume, or other chemical release.

2. The school must have an annual fire inspection with a written report by a local or state fire marshal. The school must make any corrections called for in the report and must comply with any restrictions imposed by the fire inspector.

3. The school must have at least one fire extinguisher approved by the fire marshal. The school must mount the extinguisher on the wall by the hanger or bracket provided so that staff can reach and use the extinguisher. The school must make the extinguisher readily available for immediate use by the staff. The school must inspect the fire extinguisher monthly, record the date, and ensure the extinguisher is serviced when required.

4. By January 1, 1986, the school must ensure that the building is equipped with smoke detectors installed and maintained according to the manufacturer's instructions and in compliance with requirements of the local fire code.

5. The school must have emergency evacuation and relocation plans posted in each room the children use. The plan must show two exit paths from each room unless the room opens directly to the outdoors at ground level. The school must practice a fire drill every three months. It must practice other emergency procedures once each year.

6. The school must have a flashlight or other battery-powered lighting available to use in case of electrical failure.

7. The school must ensure that all children and staff are able to exit safely from the building within three minutes in an emergency.

   a. A school must not provide classes on any level above or below the ground floor unless the school obtains the specific written approval of a fire marshal for use on other levels.

b. A school must have at least two exits to the outside located in distant parts of the building. An exit through a kitchen or other hazardous area cannot be one of the required exits unless specifically approved in writing by the fire marshal.

c. If any doors open into a fenced yard, children must be able to open the doors easily from inside the school. The school must not have any locked doors between rooms while children are present.

d. The school must not have any blocked doors or pathways.

8. The school must ensure that heating devices and areas near heat sources are not fire hazards and present no hazard to children.

a. If the school has gas appliances, the school must ensure that the appliances have metal tubing and connections unless approved in writing by the fire marshal.

b. Open flame space heaters are prohibited. Space heaters must be enclosed and have the seal of approval of a test laboratory approved by the fire marshal.

c. If the school has liquid or gas fuel heaters, the school must properly vent them to the outside. Unvented liquid or gas fuel heaters are prohibited.

d. If the school uses a fireplace or a wood-burning stove, the school must properly vent it to the outside. The school must install a rigid screen or guard to prevent children from falling into the fire or against the stove.

9. The school must ensure that gas pipes are tested annually for leaks.

4200 (§81.316) Sanitation

1. The school must have an annual sanitation inspection with a written report by a local or state sanitation official. The school must make any corrections and must comply with any restrictions stated in the report.

2. The school must keep its building, grounds, and equipment cleaned, repaired, and maintained to protect the health of the children.

3. The school must have adequate light, ventilation, and heat.

4. The school must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water. If possible, the source of water must be a public drinking water system.

5. The school must ensure that drinking water is always available to children. The school must supply the water in a safe and sanitary manner.

6. The school must ensure that the temperature of hot water available to children is controlled by a thermostat so the water cannot scald (no higher than 120 degrees Fahrenheit).

7. The school must have adequate and safe flush toilets and sewage systems. If possible, the school must be connected to a public sewage system. If public sewers are not available, the school must have treatment facilities that meet the standards of the Texas Department of Health and that are approved by the local health authority.

8. The school must keep all garbage in containers with tight lids. Garbage must be kept away from areas used by children. The school must remove garbage from the building daily and from the school at least once a week.

9. The school must take measures to keep the school free of insects and rodents.

10. Staff and children must wash their hands with soap and running water after using the toilet and before eating. Staff must wash hands with soap and running water before and after caring for a child with symptoms of a communicable disease and before handling food.

11. If children use washcloths or cloth towels, the school must ensure that each child has a clean individual cloth. If paper towels or facial tissues are furnished, the school must provide a clean individual paper towel for each child.

4300 (§81.317) Safety

1. The school must keep its building, grounds, and equipment repaired and maintained to protect the safety of children.

   a. The school's air conditions, electric fans, and heaters must be mounted out of children's reach or have safeguards that keep children from being injured.

   b. If 220-volt electrical connections are within the children's reach, the school must cover them with a screen or guard.

   c. The school must equip stairs, porches, and platforms more than 2 feet above the ground with railings the children can reach.

   d. The school must keep its play area free from standing water and sharp objects. The school must keep tanks, ponds, open wells, drainage ditches, sewage pipes, dangerous machinery, and other hazards fenced to keep the children out. The school must not have garbage cans or highly flammable material in the play area. Covered trash cans are permitted (see Glossary).

2. Indoor and outdoor equipment and supplies used both at and away from the school must be safe for the children.

   a. Outdoor play equipment must be placed away from busy areas in the yard and securely anchored unless portable by design.

   b. The school must not allow toys that explode (such as caps) or that shoot things (such as darts or BBs).

   c. The school must ensure that both indoors and outdoors children do not have access to toxic substances.

   d. All swing seats must be constructed of durable, lightweight, relatively pliable material, such as rubber or nylon webbing.

   e. All heavy equipment must be installed in a manner to prevent tipping over or collapsing.

   f. The school must not allow children to use

      (1) climbing equipment or swings on concrete or asphalt, or

      (2) swings with concrete or asphalt in the fall zone (see Glossary).

   g. The school must ensure that no equipment has openings or angles that could entrap (see Glossary) a child's head.

   h. The school must ensure that no pinch, crush, or shear points are on equipment (such as exposed or open gears on rotating devices) or underneath equipment (such as axle assemblies on rotating devices).

3. The school must have first aid supplies (see Glossary) readily available to staff in a designated location out of the children's reach. The school must have a guide to first aid and emergency care immediately accessible.

5100 (§81.318) Health Requirements for Children

1. The school must have on file within one week of admission evidence that each child is physically able to take part in the school program. Any of the following constitutes compliance:

   a. a written statement from a licensed physician who has examined the child within the past year;

   b. a copy of the medical screening form of the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program if no referral for further diagnosis and treatment is indicated;

   c. a form or written statement from a health service or clinic, such as

      (1) Head Start physical exam,

      (2) well-child conferences or clinics,

      (3) maternity and infant programs, and

      (4) children and youth programs; or

   d. a signed statement from a parent

      (1) giving the name and address of a licensed physician who has examined the child within the past year and states that the child is able to participate in the program. This must be followed within 12 months by a document as described in a, b, or c;

      (2) giving the name and address of the physician with whom an appointment for examination has been made or the address of the EPSDT screening site where the examination will take place. Following the examination, the parent must submit a document as described in a, b, or c; or

      (3) stating that medical diagnosis and treatment are against the parent's religion.

2. The school must keep current immunization records for each child at the school. (See Appendix III for immunization requirements.) The school must ensure that each child's immunization record includes the child's birth date, the number of doses and type, and the dates (month, day, and year) the child received each immunization. The school's compliance with the standard is measured by one or more of the following for each child:

   a. a dated record that the child has been immunized against diphtheria, tetanus, pertussis, polio, measles, mumps, and rubella. There must be

      (1) a record with a rubber stamp or signature of the physician or health personnel, or

(2) a machine or handwritten copy of the immunization record. Staff copying the information must sign the handwritten copies.

b. a dated statement from a licensed physician or other authorized health personnel that immunizations against at least one of the diseases in standard 5100, 2.a. have begun. The immunization cycle must be completed as soon as is medically feasible. The school must have a current immunization record on file.

c. a certificate signed by a licensed physician stating that the required immunization would be injurious to the health and well-being of the child or a member of the child's family or household.

d. an affidavit (notarized statement) signed by the parent that the immunization conflicts with the parent's religious beliefs and practices.

e. a dated statement signed by the parent that the child's immunization record is current and is on file at a regulated facility the child attends. The parent must include the name of the facility in the statement.

3. The school must have a record showing that the child has been tested for tuberculosis according to recommendations of the Texas Department of Health if the local health authorities or the regional office of the Texas Department of Health recommends a test.

A dated statement signed by the parent that the child's tuberculosis test record is current and is on file at a regulated facility the child attends also complies. The parent must include the name of the facility in the statement.

5200 (§81.319) Illness or Injury

1. A child who appears ill must not be admitted to the school unless approved in writing by health personnel (see Glossary).

2. The school must handle illness or injury to protect the health of all children in the school.

   a. The school must provide an ill or injured child with a bed, cot, or mat away from the other children. The school must call the child's parent immediately. The child must be supervised until he leaves the school.

   b. The school must plan how it would provide emergency care for an injured child, a child with symptoms of acute illness, and a child who is choking or not breathing. The planning must include the continued supervision of other children in the school.

   c. The school must give the child first aid or cardiopulmonary resuscitation, if needed. In the case of a critical illness or injury, the school must call the physician named by the parent, take the child to the nearest emergency room or minor emergency clinic, or call for an emergency vehicle.

3. The school must follow the recommendations of the Texas Department of Health concerning the admission or readmission of any child after a communicable disease (see Appendix VI).

5300 (§81.320) Medications

1. If a school agrees to administer medications, the school must administer the medication to the child as follows:

   a. Prescription medications must be in the original container labeled with the child's name, a date, directions, and the physician's name. The school must administer the medication as stated on the label directions. The school must not administer medication after the expiration date.

   b. The school must ensure that nonprescription medication is labeled with the child's name and the date the medication was brought to the school. Nonprescription medication must be in the original container. The school must administer it according to label directions if approved in writing by health personnel or the child's parent (see Glossary).

   c. The school must document each dose of medication administered showing the child's name; the name of the medicine; date, time, and amount administered; and the name of the staff administering the medicine. The school must keep the record two weeks.

2. The school must keep medications out of children's reach or in locked storage.

3. The school must keep medications requiring refrigeration separate from food.

4. The school must return medications when no longer needed to the child's parent. The school must dispose of medications when a child withdraws from the school or when the medicine is out of date.

5400 (§81.321) Emergency Phone Numbers

1. The school must post the following emergency telephone numbers by a telephone accessible to all staff. This telephone must not be a pay phone.

   a. Ambulance service or emergency medical services (EMS).

   b. Police or sheriff's department.

   c. Fire department.

   d. Poison control center.

e. Local DHR children's protective services office or child abuse hotline.

f. The school (with address).

2. The school must keep the following telephone numbers in a place accessible to the telephone and to all staff:

a. numbers at which parents may be reached, and

b. numbers of the physicians designated by the parents.

5500 (§81.322) Animals

1. The school must ensure that animals on the premises have been vaccinated according to a licensed veterinarian's recommendations. The school must have documentation of the vaccinations.

2. The school must keep the school and play yard free of stray animals. The school must not allow children to play with stray animals.

6100 (§81.323) Food Service

1. The school must ensure that all food and drink served are of safe quality and are stored, prepared, distributed, and served under sanitary and safe conditions. The school must wash and sanitize food service equipment (see Appendix VI).

2. The school must practice good hygiene when handling food. Staff with open or infected wounds must not work in the food preparation area. No one may smoke in any of the food areas.

3. The school must discard single-service napkins, dishes, and utensils after use. Washable napkins and tablecloths must be cleaned after each use.

4. The school must encourage, but not force, children to eat. The school must discuss recurring eating problems with the child's parent.

5. Cleaning supplies must be clearly marked and kept separate from food.

ACTIVITIES

7100 (§81.324) Operation

1. The school must provide activities for each group according to ages, interests, and abilities of the children. The activities must be appropriate to each child's health, safety, and well-being. They also must be flexible and promote each child's physical, emotional, social, and mental growth.

   a. The school must provide physical care routines appropriate to each child's developmental needs.

   b. The school must ensure that indoor and outdoor time periods include

      (1) active and quiet activities,

      (2) opportunity for individual and group activities, and

      (3) outdoor time each day that weather permits.

2. The school must ensure the children's safety on field trips and excursions and during any transportation provided by or for the school. Transportation includes, but is not limited to, transportation provided between home and the school and between the school and a day care center. (See section 7700 for additional transportation standards.)

   a. At least 48 hours before a field trip, the school must post in a prominent place a notice showing which group of children will be on the field trip and where and when the group will go. The school must ensure that the notice remains posted until the group returns to the school.

   b. Staff supervising children must have immediate access to emergency medical forms and emergency contact information for each child in the group.

   c. Staff must have a written list of the children in the group and must check the roll frequently.

   d. Staff must have first aid supplies (see Glossary) available on field trips.

   e. When children are on a field trip in an enclosed, controlled area, the school must maintain the staff-child ratio as outlined in standard 2500, 1. An example would be any event planned for the group including, but not limited to, skating, dancing, or gymnastic classes; library story time; or tours.

f. When children are on a field trip and mixing with other children or adults, the adult-child ratio must be as follows:

Age of Youngest Child In Group	Maximum Number of Children to be Supervised by One Adult
4 years	9
5 years	11
6 years and older	15

Examples of this situation include trips to shopping centers, the circus, or amusement parks or other activities in areas open to the general public.

(1) The number of regular staff supervising this type of field trip must be at least equal to the number required by standard 2500, 1. The number may be supplemented by parents or volunteers trained in the school's field trip procedures.

(2) Children must have name tags or other identification listing the name and phone number of the school.

g. Staff supervising a field trip must have transportation or a plan for transportation at the field trip location in case of emergency.

7200 (§81.325) Discipline and Guidance

1. The school must ensure that discipline and guidance are consistent, are based on an understanding of individual needs and development, and promote self-discipline and acceptable behavior.

2. There must be no cruel, harsh, or unusual punishment or treatment.

a. Staff must not shake, bite, or hit the children. The school must not put anything in or on a child's mouth as punishment.

b. If the governing body believes that it is necessary to spank children, the school must have a statement on file that it is the school's policy to permit physical punishment. The statement of the rules that the school has adopted concerning the administration of physical punishment must include that spanking be done only with a staff's open hand on a child's buttocks. Each incident must be witnessed by another staff and documented in the school's records. The school must inform the parents in writing of the policy and must have the parents' signed approval. (See Appendix IV for alternative methods of discipline.)

c. The school may use brief, supervised separation from the group if necessary, but it must not place children in a locked room or in a dark room with the door closed.

d. The school must not humiliate or subject children to abusive or profane language. The school must not associate punishment with food.

7300 (§81.326) Children with Need for Special Care

The school must ensure that children who need special care at the school because of disabling or limiting conditions are given the care and activities qualified psychologists, physicians, or other experts recommend.

7400 (§81.327) Water Activities

1. When a school uses a splashing or a wading pool with less than 2 feet of water, the following staff-child ratio must be maintained:

Age of Youngest Child in Group	Number of Staff	Maximum Number of Children
4 years	1	18
5 years	1	22
6 years and older	1	26

2. When the school uses a swimming pool (more than 2 feet of water), the following apply:

   a. At the school, the pool must be enclosed by a fence at least 6 feet high and built so children cannot easily climb over it. The school must keep the gate locked when the pool is not in use.

   b. One lifesaving device must be available for each 2,000 square feet of water surface with a minimum of two for each pool.

   c. A certified lifeguard must be on duty at all times. This person must not be counted in the staff-child ratio if people other than the children from the school are swimming.

   d. Staff must be able to see clearly all parts of the pool, including the bottom.

3. The school must ensure that all drain grates are in place, are in good repair, and cannot be removed without using tools.

4. The staff-child ratio for swimming is as follows:

Age of Youngest Child in Group	Number of Staff	Maximum Number of Children
4 years	1	12
5 years	1	15
6 years and older	1	18

   a. The number of regular staff supervising swimming activities must be at least equal to the number required by standard 2500, 1. The number may be supplemented by parents or volunteers trained in the school's procedures for supervising swimming.

b. Adults included in the staff-child ratio for swimming must be able to swim and must constantly supervise the swimming activity.

c. When four or more children are swimming, two adults must be present.

5. When children are in a pool that has a pump and filtering system, an adult who is able to turn off the system immediately must be present.

6. The school must ensure that pool chemicals are inaccessible to children and that machinery rooms are locked.

7. All pools the school uses must be maintained as stated in the standards of the Texas Department of Health and local regulations.

7500 (§81.328) Transportation

1. Effective July 1, 1985, if a school provides transportation, each child being transported must ride in a seat belt.

This requirement applies to all transportation including, but not limited to, transportation to and from the school, to and from a day care center, and on field trips.

This requirement applies to any vehicle used by or for the school to provide transportation, regardless of whether owned by the school and regardless of the type of vehicle - automobile, van, school bus, or other.

a. Only one person may use each seat belt.

b. A child may ride in a shoulder harness and seat belt if the shoulder harness goes across the child's chest and not across the child's face or neck.

2. Effective July 1, 1985, the driver and all adult passengers in a vehicle transporting children must be properly restrained by a seat belt when the vehicle is in motion.

3. The school must load and unload children at the curb side of the vehicle or in a protected parking area or driveway. The school must ensure children are supervised when they cross a street after leaving a vehicle.

4. The school must keep first aid supplies (see Glossary) in all school vehicles transporting children.

5. The school must equip all school vehicles used for transporting children with a minimum of one 6-BC portable fire extinguisher. The fire extinguisher must be installed in the passenger compartment of the vehicle and must be accessible to the adult occupants.

6. The staff-child ratio must be met during transportation of children (see standard 2500, 1).

GLOSSARY

(§81.329) Glossary

Abuse — Nonaccidental infliction or threat of infliction of physical, emotional, or mental harm to a child.

Activity Space — Area or rooms used for children's activity including those separate from a group's classroom (see also Single-use Area).

Administrative Functions — Functions that involve the management of a school such as bookkeeping, enrolling children, answering the telephone, and collecting fees.

Admission — The process of entering a child in a school. The date of admission is the first day on which the child is actually present in the school.

Adult — A person age 18 or older.

Aide — A person involved in direct care, supervision, and guidance of children. An aide works under the direction of the staff who has primary responsibility for the children.

Application — The form the department furnishes to gather information about and to document the intent of the governing body to set up a school. The application also includes all material required to be submitted to the department.

Attendance — Children actually present in the school at any given time. (Not to be confused with enrollment.)

Child — A person who has not reached his eighteenth birthday.

Child Development Associate Credential — A credential which is highly desirable for staff working directly with young children; based on assessed competency in several areas of child care and child development. Child development training is available in the public community and junior college system as well as in four-year colleges, either in regular child development, vocational programs, or through adult continuing education courses.

Children with Need for Special Care — Children with disabling or limiting conditions which prevent or limit participation in the normal activities of the school and which may require additional supervision. Disabling or limiting conditions include visual impairment or deafness, other physical disabilities, mental retardation, emotional disturbance, or learning disabilities.

Consultation Services for Children with Need for Special Care — Qualified consultants include psychologists, special education counselors, educational diagnosticians, special education supervisors, teachers certified by the Texas Education Agency to teach mentally retarded or emotionally disturbed children, pediatricians, licensed registered nurses, child psychiatrists, and MSW social workers skilled in assessing normal and unusual developmental problems in children.

Such consultants may be found in state schools and hospitals, MHMR centers, human development centers, public school special education departments, university psychology or special education departments, and the state listing of certified psychologists. (Copies of "Roster-Texas State Board of Examiners of Psychologists" can be found in local DHR offices or can be ordered from the state office Business Management Bureau.)

Continuing Education Unit (CEU) — A certificate granted by an educational institution to a person who has completed a training course. (One CEU is granted for 10 clock hours of formal training.)

Department (DHR) — Used in this document to refer only to the Texas Department of Human Resources.

Direct Teaching — The supervision, guidance, instruction, and care of children as compared to food service, janitorial functions, or administrative functions.

Director — That person the governing body designates to assume daily on-site responsibility for the operation of a school, including maintenance of minimum standards. In multiple schools under a chief administrative officer, the director is the person physically present at each school.

Enrollment — The list of names of children registered with the school. (Not to be confused with attendance.)

Entrapping Equipment — A component or group of components on play equipment that forms angles or openings that could trap a child's head by being (1) too small to allow the child to withdraw his head easily, and (2) placed so that the child would be unable to support his weight by means other than his head or neck.

Facility — Includes people, administration, governing body, activities (on or off the premises), operations, buildings, grounds, equipment, furnishings, and materials.

Fall Zone — An area extending 4 feet from climbing structures; 5 feet from the bottom of a slide (other parts of the slide are climbing structures); 7 feet plus the length of a swing's chain from the point of its suspension; and 7 feet from a merry-go-round and other revolving devices.

First Aid Supplies — Required supplies include multi-size adhesive bandages, gauze pads, tweezers, cotton balls, hydrogen peroxide, syrup of ipecac, and a thermometer.

Food Service — The preparation or serving of meals or snacks.

Garbage — Waste food or items which, when deteriorating, cause offensive odors and attract rodents, insects, and the like.

Governing Body — The entity with ultimate authority and responsibility for the overall operation of the school. All governing bodies will be one of the following types:

(A) *Sole proprietorship* — Owned by an individual with the legal right and responsibility to possess, operate, sell, and otherwise deal with the facility. May include a facility owned in common by husband and wife.

(B) *Partnership* — Combination by contract of two or more people who use their money, labor, and skill to carry on a continuing business, dividing the profits and sharing the losses in an agreed manner. Includes general and limited partnerships.

(C) *Corporation* — An intangible entity created by individuals to operate for profit but to limit individual liability. Organized according to the Texas Business Corporation Act or similar act of another state as evidenced by its Articles of Incorporation.

(D) *Nonprofit corporation* — Equivalent of "not for profit corporation." None of the income is distributed to members, directors, or officers. Organized under the Texas Non-Profit Corporation Act.

(E) *Nonprofit corporation with religious affiliation* — Has nonprofit corporation status and is operated by, responsible to, or associated with an organization of individuals devoted to religious purposes. Does not include those whose relationship with a religious organization is only for business, such as those who only lease space.

(F) *Association* — A combination of individuals and interests of some kind without IRS tax-exempt status. Not organized under the Texas Business Corporation Act.

(G) *Nonprofit association* — A combination of individuals and interests of some kind, synonymous with "society," with operations devoted to charitable, benevolent, religious, patriotic, or educational purposes. Not organized under the Texas Business Corporation Act.

(H) *Nonprofit association with religious affiliation* — A combination of individuals and interests of some kind, synonymous with "society," with operations devoted to religious purposes. Not organized under the Texas Business Corporation Act. Operated by, responsible to, or associated with an organization of individuals devoted to religious purposes. Does not include those whose relationship with a religious organization is only for business, such as those who only lease space.

(I) *State operated* — Operated by, under the direct jurisdiction of, and responsible to an agency of the state of Texas.

(J) *Other political subdivision* — Operated by and under the jurisdiction of a county municipality, school district, or other political entity.

Governing Body Designee — The person named on the application as the designated representative of a governing body that is not a sole proprietorship or partnership.

Group — A specific number of children assigned to specific staff. Each child in any group has the following things in common with every other child in his group: (1) the same staff responsible for the child's basic needs, and (2) the same classroom or activity space.

Handwashing — Rubbing hands together with soap under running water.

Health Personnel — A licensed physician, a licensed registered nurse, or a person providing preventive, diagnostic, or therapeutic medical care to individuals in the community.

Janitorial Functions — Those services that involve cleaning and maintenance above that which is required for the continuation of the school program. Sweeping after an activity or mopping up spills may be necessary for continued use of the classroom, but total sweeping, vacuuming, or mopping of a classroom is a janitorial function.

Kindergarten Class — A class for children who will be in first grade the next September.

License — A complete document issued to the governing body of a school authorizing the licensee to operate at a specified location according to the provisions of the license, the law, and the rules and regulations of the Texas Department of Human Resources.

Neglect — Nonaccidental failure or threatened failure to provide a child with the physical and emotional requirements for life, growth, and development.

Parent — Used in this document to refer to parent, legal guardian, or managing conservator.

Plan of Operation — The form the department furnishes on which the governing body outlines the plans for operating the school.

Probation — A sanction placed on a school instead of revocation. Under probation, the school may remain open and continue to provide a program for children.

Provisional License — A license the department issues to a school whose plans meet the department requirements but which is (1) not currently operating, (2) not licensed for the location stated in the application, or (3) changing ownership.

School — Any facility, whether known or incorporated under such descriptive title or name "School," "Kindergarten," and the like, which receives children for an education program. This term applies to program, buildings, grounds, furnishings, and equipment.

School Area — That area specifically licensed for use by the school program. This may include a specific portion or portions of the building and grounds of a larger facility or one or more buildings at the same location. That area, both indoor and outdoor, designated in the plan of operation.

School Location — The street address of the school; the lot or lots on which the building or buildings are located.

School Program — Those services and activities provided by a school; the daily schedule.

Sexual Abuse or Sexual Molestation — Any sexually oriented act or practice involving staff or another adult and a child in care. Examples include, but are not limited to, fondling, sexual intercourse, sexual stimulation, sodomy, incest, rape, and using the child in sexually explicit films or pictures.

Single-use Areas — Include, but are not limited to, bathrooms, hallways, storage rooms, cooking areas of kitchens, and indoor swimming pools.

Staff — Any person responsible for working in contact with children whether paid or unpaid.

Supervision — Caring for or teaching a child or a group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires physical presence, knowledge of activity requirements and children's needs, and accountability for their care. This includes staff being near enough to children to intervene when needed.

Training — Time spent in workshops; conferences of child care, early childhood, or educational associations; formal schooling; self-instructional materials; or planned learning opportunities provided by directors, other staff, or consultants. Training must be in subject areas such as child care, child development, and early childhood education. Training for directors may also be in supervision of staff or program administration.

Trash/Litter — Paper products, plastic, cloth, and the like.

Water Activities - Related to the use of splashing pools, wading pools, swimming pools, or other bodies of water.

INTRODUCTION

The Child Care Licensing Act of 1975, formerly Texas Revised Civil Statues Annotated, Article 695a-3, is now Chapter 42 of the Human Resources Code. The correct citation is Human Resources Code, Chapter 42.

CHAPTER 42, REGULATION OF CHILD-CARE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 42.001. DEFINITIONS

(Sections 42.003-42.020 reserved for expansion)

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

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Sec. 42.071. LICENSE SUSPENSION AND PROBATION
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Sec. 42.075. CIVIL PENALTY
Sec. 42.076. CRIMINAL PENALTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. PURPOSE. The purpose of this chapter is to protect the health, safety, and wellbeing of the children of the state who reside in childcare facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of childcare programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate, and nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of religious instruction or the curriculum of a school sponsored by a religious organization.

Sec. 42.002. DEFINITIONS. In this chapter:

(1) "Child" means a person under 18 years of age.

(2) "Division" means the division designated by the department to carry out the provisions of this chapter.

(3) "Child-care facility" means a facility that provides care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

(4) "Child-care institution" means a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment camps, emergency shelters, and training or correctional schools for children.

(5) "Foster group home" means a facility that provides care for 7 to 12 children for 24 hours a day.

(6) "Foster family home" means a facility that provides care for not more than six children for 24 hours a day.

(7) "Day-care center" means a facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.

(8) "Group day-care home" means a facility that provides care for 7 to 12 children under 14 years of age for less than 24 hours a day.

(9) "Registered family home" means a facility that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed 12 at any given time.

(10) "Family day home" means a facility that provides care for not more than six children under 14 years of age for less than 24 hours a day not in the caretaker's own residence nor in the residence of one or more of the children.

(11) "Agency home" means a private home that provides care for not more than six children, that is used only by a licensed child-placing agency, and that meets division standards.

(12) "Child-placing agency" means a person other than the natural parents or guardian of a child who plans for the placement of or places a child in an institution, agency home, or adoptive home.

(13) "Facilities" includes child-care facilities and child-placing agencies.

(14) "State of Texas" or "state" does not include political subdivisions of the state.

(Sections 42.003-42.020
reserved for expansion)

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 42.021. DIVISION DESIGNATED. (a) The department shall designate a division within the department to regulate and license child-care facilities and child-placing agencies. The division shall enforce the provisions of this chapter and the rules and standards adopted by the department under this chapter and shall carry out other responsibilities the department may delegate or assign.

(b) The commissioner of the department shall appoint as director of the division a person who:

(1) meets the qualifications required of a childcare administrator by Chapter 43 of this code;

(2) holds a graduate degree in social science or law and has five years' administrative experience in a field related to child care; or

(3) has 10 years' experience in a field related to child care, at least 5 of which must be administrative.

(c) The department shall employ sufficient personnel and provide training for the personnel to carry out the provisions of this chapter.

(d) The director may divide the state into regions for the purpose of administering this chapter.

Sec. 42.022. STATE ADVISORY COMMITTEE. (a) The State Advisory Committee on Child-care Facilities is composed of 15 citizens of this state appointed by the commissioner.

(b) Members of the committee serve for terms of two years.

(c) The members must represent the following groups:

(1) parents, guardians, or custodians of children who use the facilities;

(2) child advocacy groups;

(3) operators of the facilities; and

(4) experts in various professional fields that are relevant to child care and development.

(d) At least three members of the division staff shall meet with the committee, and the division shall provide staff necessary for the committee.

(e) The committee shall review rules and minimum standards for child-care facilities and child-placing agencies promulgated by state agencies, and shall advise the department, the division, the council, and state agencies on problems of childcare facilities and child-placing agencies.

(f) The committee shall receive and review the annual report of the division.

(g) The committee shall meet twice a year, and the members shall receive their actual travel expenses and the state per diem.

Sec. 42.023. ANNUAL REPORT. (a) The division shall send an annual report of its activities to the governor, lieutenant governor, and members of the legislature.

(b) The annual report shall include:

(1) a report by regions of applications for licensure or certification, of provisional licenses issued, denied, or revoked, of emergency closures and injunctions, and of the compliance of state-operated agencies with certification requirements;

(2) a summary of the amount and kind of inservice training and other professional development opportunities provided for division staff;

(3) a summary of training and other professional development opportunities offered to facilities' staffs; and

(4)a report of new administrative procedures, of the number of staff and staff changes, and of plans for the coming year.

(c) Copies of the annual report shall be available to any state citizen on request.

Sec. 42.024. ADMINISTRATIVE PROCEDURE. The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) applies to all procedures under this chapter except where it is contrary to or inconsistent with the provisions of this chapter.

(Sections 42.025-42.04S
reserved for expansion)

SUBCHAPTER C. REGULATION OF CHILD-CARE FACILITIES

Sec. 42.041. REQUIRED LICENSE. (a) No person may operate a child-care facility or child-placing agency without a license issued by the division.

(b) This section does not apply to:

(1) a state-operated facility;

(2) an agency home;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Texas Department of Health;

(6) a hospital licensed by the Texas Department of Mental Health and Mental Retardation or the Texas Department of Health;

(7) an educational facility accredited by the Central Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above;

(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Central Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day; and

(10) a registered family home.

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades.

(c) A single license that lists addresses and the appropriate facilities may be issued to a child-care institution that operates noncontiguous facilities that are nearby and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(d) A person operating or desiring to operate a child-care facility that is exempt from the provisions of Subsection (a) of this section may apply to the division for a license as provided in Section 42.046 of this code The division may not deny an exempt facility a license on the ground that it is exempt from Subsection (a) of this section. A facility exempt from the provisions of Subsection (a) of this section that desires to receive or participate in federal or state funding shall be required to comply with all other provisions of this Act and with all regulations promulgated thereunder.

(e) The exemptions provided by Subsection (b) of this section do not affect the authority of local, regional, or state health department officials, the state fire marshal, or local fire prevention officials to inspect child-care facilities.

Sec. 42.042. RULES AND STANDARDS. (a) The department shall make rules to carry out the provisions of this chapter.

(b) The department shall conduct a comprehensive review of all rules and standards at least every six years.

(c) The department shall provide a standard procedure for receiving and recording complaints and a standard form for recording complaints.

(d) The department shall provide standard forms for applications and inspection reports.

(e) The department shall promulgate minimum standards for child-care facilities covered by this chapter that will:

(1) promote the health, safety, and welfare of children attending a facility;

(2) promote safe, comfortable, and healthy physical facilities for children;

(3) ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4) ensure adequate and healthy food service where food service is offered;

(5) prohibit racial discrimination by child-care facilities; and

(6) require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs.

(f) In promulgating minimum standards for childcare facilities, the department shall recognize the various categories of facilities, including facilities offering specialized care, and the various categories of children and their particular needs. Standards for child-care institutions must require an intake study before a child is placed in an institution. The intake study may be conducted at a community mental health and mental retardation center.

(g) In promulgating minimum standards, the department may recognize and treat differently the following child-care facilities: child-caring institutions, foster homes, day-care centers, group daycare homes, family day homes, registered family homes, and agency homes.

(h) The department shall promulgate minimum standards for child-placing agencies.

(i) Before adopting minimum standards, the division shall present the proposed standards to the State Advisory Committee or Child-Care Facilities for review and comment, and shall send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to the council and the department.

(j) The department may waive compliance with a minimum standard in a specific instance if it determines that the economic impact of compliance is sufficiently great to make compliance impractical.

(k) The department may not regulate or attempt to regulate or control the content or method of any organization or curriculum of a school sponsored by a religious organization.

Sec. 42.043. RULES FOR IMMUNIZATIONS.
(a) The department shall make rules for the immunization of children admitted to facilities.

(b) The department shall require that each child at an appropriate age have a test for tuberculosis and be immunized against diptheria, tetanus, poliomyelitis, rubella, and rubeola. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible.

(c) The Texas Department of Health shall make rules for the provisional admission of children to facilities and may modify or delete any of the immunizations listed in Subsection (b) of this section or require additional immunizations as a requirement for admission to a facility.

(d) No immunization may be required for admission to a facility if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization would be injurious to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the immunization conflicts with the tenets and practices of a recognized religious organization of which the applicant is an adherent or a member.

(e) Each facility shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the division at all reasonable times.

(f) The Texas Department of Health shall provide the immunizations required by this section to children in areas where there is no local provision of these services.

Sec. 42.044. INSPECTIONS. (a) An authorized representative of the division may visit a facility during operating hours to investigate, inspect, and evaluate.

(b) The division shall inspect all licensed or certified facilities at least once a year and may inspect other facilities as necessary. At least one of the annual visits must be unannounced and all may be unannounced.

(c) The division must investigate a facility when a complaint is received. The division representative must notify the facility's director or authorized representative when a complaint is being investigated and report in writing the results of the investigation to the director or the director's authorized representative.

(d) The division may call on political subdivisions and governmental agencies for assistance within their authorized fields.

Sec. 42.045. RECORDS. (a) A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, statistical records, and complete financial records.

(b) A person who operates a licensed facility shall have an annual audit by a certified public accountant of the facility's books. A copy of the accountant's statement of income and disbursements must accompany an application for a license. This subsection does not apply to a facility that provides care for less than 24 hours a day or to an agency home.

(c) If a child-placing agency terminates operation as a child-placing agency, it shall, after giving notice to the department, transfer its files and records concerning adopted children, their biological families, and their adoptive families to the department or to a facility licensed by the department to place children for adoption.

Sec. 42.046. LICENSE APPLICATION. (a) An applicant for a license to operate a child-care facility or child-placing agency shall submit to the divison a completed application on a form provided by the division.

(b) The division shall supply the applicant the application form and a copy of the appropriate minimum standards.

(c) After receiving an application, the division shall investigate the applicant and the plan of care for children.

(d) The division shall complete the investigation and decide on an application within two months after the date the division receives an application.

Sec. 42.047. CONSULTATIONS. (a) The department shall offer consultation to potential applicants, applicants, and license and certification holders about meeting and maintaining standards for licensing and certification and achieving programs of excellence in child care.

(b) The department shall offer consultation to prospective and actual users of facilities.

Sec. 42.048. ADVISORY OPINIONS. (a) The director of the division may give an advisory opinion on whether or not a planned facility or a planned change in an existing facility complies with the division's rules and minimum standards.

(b) A written opinion authorized by Subsection (a) of this section is binding on the division as a declaratory order if it is signed by the division director and the division representative administering this chapter in a division region, and if an applicant or license holder has acted in reliance on the opinion.

Sec. 42.049. LICENSING. (a) The division shall issue a license after determining that an applicant has satisfied all requirements.

(b) When issuing a license, the division may impose restrictions on a facility, including but not limited to the number of children to be served and the type of children to be served.

(c) The division may grant a variance of an individual standard set forth in the applicable standards for good and just cause.

(d) A license holder must display a license issued under this chapter in a prominent place at the facility.

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. A change in location or ownership automatically revokes a license.

(f) A biennial license must be issued if the division determines that a facility meets all requirements. The evaluation shall be based on a specified number of visits to the facility and a review of all required forms and records.

Sec. 42.050. LICENSE RENEWAL. (a) A license holder may apply for a new license in compliance with the requirements of this chapter and the rules promulgated by the division.

(b) The application for a new license must be completed and decided on by the division before the expiration of the license under which a facility is operating.

(c) The division shall evaluate the application for a new license to determine if all licensing requirements are met. The evaluation must include a specified number of visits to the facility and a review of all required visits to the facility and a review of all required forms and records.

Sec. 42.051. PROVISIONAL LICENSE. (a) The division shall issue a provisional license when a facility's plans meet the department's licensing requirements and one of the following situations exists:
Co

(1) the facility is not currently operating;

(2) the facility is not licensed for the location stated in the application; or

(3) there is a change in ownership of the facility.

(b) A provisional license is valid for six months from the date it is issued and is not renewable.

Sec. 42.052. CERTIFICATION AND REGISTRATION. (a) A state-operated child-care facility or child-placing agency must receive certification of approval from the division. The certification of approval must be renewed every two years.

(b) To be certified, a facility must comply with the department's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place at the facility.

(c) A registered family home must be registered with the division.

(d) To be registered with the division, a registered family must comply with the department's rules and standards and any provision of this chapter that applies to a registered family home.

(e) The certification requirements of this section do not apply to a Texas Youth Council facility or a facility providing services solely for the Texas Youth Council.

Sec. 42.053. AGENCY HOMES. (a) An agency home is considered part of the child-placing agency that operates the agency home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency home used by the agency.

(c) An agency home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The division shall revoke or suspend the license of a child-placing agency if an agency home operated by the licensed agency fails to comply with Subsection (c) of this section.

(Sections 42.054-42.070
reserved for expansion)

SUBCHAPTER D. REMEDIES

Sec. 42.071. LICENSE SUSPENSION AND PROBATION. (a) The division may suspend the license of a facility that has temporarily ceased operation but has definite plans for starting operations again within the time limits of the issued license.

(b) The division may suspend a facility's license for a definite period rather than deny or revoke the license if the division finds repeated noncompliance with standards that do not endanger the health and safety of children. To qualify for license suspension under this subsection, a facility must suspend its operations and show that standards can be met within the suspension period.

(c) The division may place a facility on probation for a definite period not to extend beyond the expiration date of the license rather than suspend or revoke the license. The division may revoke the license of the facility during the probationary period if the facility does not meet the conditions of probation.

(d) The division shall revoke the license of a facility that does not comply with standards at the end of a license suspension or probation.

Sec. 42.072. LICENSE DENIAL OR REVOCATION. (a) The division may deny or revoke the license or certification of approval of a facility that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license or certification.

(b) The division shall notify the person operating or proposing to operate a facility of the reasons for the denial or revocation and of the person's right to appeal the decision within 30 days after receiving the notice.

(c) A person who wishes to appeal a license denial or revocation shall notify the director by certified mail within 30 days after receiving the notice required in Subsection (b) of this section. The person shall send a copy of the notice of appeal to the assigned division representative.

(d) Within 14 days after the date the appeal notification was mailed, the director shall appoint an advisory review board to hear the appeal or notify the person requesting the appeal that the request is denied.

(e) Within 14 days after notifying a person that an advisory review board will hear the case, the director shall appoint five of the person's peers to the board and set a date for the hearing. The date for the hearing must be within 28 days after the date the board members are appointed.

(f) The advisory review board shall hear the appeal and render its opinion to the director within seven days after the last day of the hearing. The board members shall receive actual travel expenses and the state per diem for each day of the hearing.

(g) A committee composed of the director, the division representative responsible for establishing standards, and the division representative administering this chapter in the region where the facility in question is located shall review the opinion. The committee shall make a decision within 14 days after receiving the opinion and shall notify, by certified mail, the person who appealed.

(h) A person whose license has been denied or revoked may challenge the committee's decision by filing a suit in a district court of Travis County or the county in which the person's facility is located within 30 days after receiving the committee's decision. The trial shall be de novo.

(i) Records of the department's hearing shall be kept for one year after a committee decision is rendered. On request, and at the person's own expense, the division shall supply a copy of the verbatim transcript of the advisory board hearing to a person appealing a license denial or revocation in district court.

(j) A person may continue to operate a facility during an appeal of a license denial or revocation unless the division has sought injunctive relief under Section 42.074 or civil penalties under Section 42.075 of this code.

Sec. 42.073. CLOSING A FACILITY. (a) The division may close the facility and place the children attending the facility in another facility if the division finds violations of this chapter or violations of the department's rules and standards that create an immediate danger for children.

(b) A division representative who finds conditions described in Subsection (a) of this section shall immediately notify the director and request an immediate inspection of the facility by the director or the director's designee.

(c) The division shall report to the governor and the commissioner of the department when a stateoperated facility is found in violation of this chapter or the department's rules and standards and the violation threatens serious harm to the children in the facility.

(d) Closing a facility under this section is an emergency measure. The division shall seek an injunction against continued operation of the facility after closing a facility under this section.

Sec. 42.074. INJUNCTIVE RELIEF. (a) When it appears that a person has violated, is violating, or is threatening to violate the licensing, certification, or registration requirements of this chapter or the department's licensing, certification, or registration rules and standards, the division may file a suit in a district court in Travis County or in the county where the facility is located for assessment and recovery of civil penalties under Section 42.075 of this code, for injunctive relief, including a temporary restraining order, or for both injunctive relief and civil penalties.

(b) The district court shall grant the injunctive relief the facts may warrant.

(c) At the division's request, the attorney general shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a) of this section.

Sec. 42.075. CIVIL PENALTY. (a) A person is subject to a civil penalty of not less than $50 nor more than $100 for each day of violation and for each act of violation if the person:

(1) threatens serious harm to a child in a facility by violating a provision of this chapter or a department rule or standard;

(2) violates a provision of this chapter or a department rule or standard three or more times within a 12-month period; or

(3) places a public advertisement for an unlicensed facility.

(b) The civil penalty authorized by this section is cumulative and in addition to the criminal penalties and injunctive relief provided by this chapter.

Sec. 42.076. CRIMINAL PENALTIES. (a) A person who operates a child-care facility or childplacing agency without a license commits a Class B misdemeanor.

(b) A person who places a public advertisement for an unlicensed facility commits a Class C misdemeanor.

APPENDIX II
EXCERPTS FROM THE TEXAS FAMILY CODE (AMENDED)

CHAPTER 17. EMERGENCY PROCEDURES IN SUIT BY GOVERNMENTAL ENTITY

Section 17.03. Taking Possession of a Child Without a Court Order. (a) An authorized representative of the Texas Department of Human Resources, a law enforcement officer, or a juvenile probation officer may take possession of a child without a court order under the following conditions and no others:

(1) upon discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(2) upon the voluntary delivery of the child by the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child;

(3) upon personal knowledge of facts which would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code; or

(4) upon information furnished by another which has been corroborated by personal knowledge of facts and all of which taken together would lead a person of ordinary prudence and caution to believe that there is an immediate danger to the physical health or safety of the child and that there is no time to obtain a temporary restraining order or attachment under Section 17.02 of this code.

(See the full text of Section 17.03 for specifics on the court hearings which follow taking possession of a child in an emergency.)

CHAPTER 34. REPORT OF CHILD ABUSE

Section 34.01. Persons Required to Report
Section 34.011. Form
Section 34.02. Contents of Report: To Whom Made
Section 34.03. Immunities
Section 34.04. Privileged Communications
Section 34.05. Investigation and Report of Receiving Agency
Section 34.06. Central Registry
Section 34.07. Failure to Report: Penalty
Section 34.08. Confidentiality

Section 34.01. Persons Required to Report. Any person having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect shall report in accordance with Section 34.02 of this code.

Section 34.011. Form. The Texas Department of Human Resources shall promulgate a form and cause a sample to be distributed for the reporting of suspected occurrences of child abuse as required by Section 34.01 of this code. Copies of the form shall be distributed to all licensed hospitals in this state to be available for use without charge by hospital employees, physicians, patients, and other persons. The form shall include a statement that child abuse reports are confidential and that information contained in the reports, including the name of the person making the report, may be used only for the purposes consistent with the investigation of child abuse. The form shall give the address of the Texas Department of Human Resources. Hospital employees, physicians, patients, and other persons must complete the form and return it to the Texas Department of Human Resources.

Section 34.02. Contents of Report: To Whom Made. (a) Nonaccusatory reports reflecting the reporter's belief that a child has been or will be abused or neglected, or has died of abuse or neglect, has violated the compulsory school attendance laws on three or more occasions, or has, on three or more occasions, been voluntarily absent from his home without the consent of his parent or guardian for a substantial length of time or without the intent to return shall be made to any local or state law enforcement agency, and in addition shall be made to:

(1) the Texas Department of Human Resources; or

(2) the agency designated by the court to be responsible for the protection of children.

(b) All reports must contain the name and address of the child, the name and address of the person responsible for the care of the child, if available, and any other pertinent information.

(c) All reports received by any local or state law enforcement agency shall be referred to the Texas Department of Human Resources or to the agency designated by the court to be responsible for the protection of children. The department or designated agency immediately shall notify the appropriate state or local law enforcement agency of any report it receives, other than from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

(d) An oral report shall be made immediately on learning of the abuse or neglect as prescribed in Subsection (a) of this section, and a written report shall be made within five days to the same agency or department. Anonymous reports, while not encouraged, will be received and acted on in the same manner as acknowledged reports.

Section 34.03. Immunities. Any person reporting pursuant to this chapter is immune from liability, civil or criminal, that might otherwise be incurred or imposed. Immunity extends to participation in any judicial proceeding resulting from the report. Persons reporting in bad faith or malice are not protected by this section.

Section 34.04. Privileged Communications. In any proceeding regarding the abuse or neglect of a child or the cause of any abuse or neglect, evidence may not be excluded on the ground of privileged communication except in the case of communications between attorney and client.

Section 34.05. Investigation and Report of Receiving Agency. (a) The Texas Department of Human Resources or the agency designated by the court to be responsible for the protection of children shall make a thorough investigation promptly after receiving either the oral or written report. The primary purpose of the investigation shall be the protection of the child.

(b) In the investigation the department or agency shall determine:

(1) the nature, extent, and cause of the abuse or neglect;

(2) the identity of the person responsible for the abuse or neglect;

(3) the names and conditions of the other children in the home;

(4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment;

(6) the relationship of the child to the parents or persons responsible for the care of the child;

(7) all other pertinent data.

(c) The investigation shall include a visit to the child's home, a physical examination of all the children in that home, and an interview with the subject child. The investigation may include a psychological or psychiatric examination of all the children in the home. If admission to the home, school, or any place where the child may be, or permission of the parents or persons responsible for the child's care for the physical examination cannot be obtained, then the juvenile court, or the district court, upon cause shown, shall order the parents or the persons responsible for the care of the children, or the person in charge of any place where the child may be, to allow entrance for the interview, the physical examination, and investigation. If the parents or persons responsible for the child's care does not consent to a psychological or psychiatric examination of the child that is requested by the department or agency, the juvenile court or district court, upon cause shown, shall order the examination to be made at the times and places designated by the court. The parent or person responsible for the child's care is entitled to notice and a hearing when the department or agency seeks a court order to allow a psychological or psychiatric examination.

(d) If, before the investigation is complete, the opinion of the investigators is that immediate removal is necessary to protect the child from further abuse or neglect, the investigators shall file a petition pursuant to Chapter 17 of this code for temporary care and protection of the child.

(e) The agency designated by the court to be responsible for the protection of children or the department shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the juvenile court of the district court, the district attorney, and the appropriate law enforcement agency if sufficient grounds for the institution of a suit affecting the parent-child relationship are found.

(f) On the receipt of the report and recommendation required by Subsection (e) of this section, the court may direct the investigator to file a petition seeking appropriate relief under Subtitle A of this title.

Section 34.06. Central Registry. The Texas Department of Human Resources shall establish and maintain in Austin, Texas, a central registry of reported cases of child abuse or neglect. The department may adopt rules and regulations as are necessary in carrying out the provisions of this section. The rules shall provide for cooperation with local child service agencies, including hospitals, clinics, and schools, and cooperation with other states in exchanging reports to effect a national registration system.

Section 34.07. Failure to Report: Penalty. (a) A person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect and knowingly fails to report in accordance with Section 34.02 of this code.

(b) An offense under this section is a Class B misdemeanor.

Section 34.08. Confidentiality. The reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

APPENDIX III
CHILD CARE FACILITY
IMMUNIZATION REQUIREMENTS

Age Group	Required Immunization and Number of Doses
Under 2 mos.	No immunizations required.
2 mos. to 4 mos.	1 dose of oral polio vaccine (OPV). 1 dose of diphtheria-tetanus-pertussis (DTP) vaccine.
4 mos. to 6 mos.	2 doses of OPV. 2 doses of DTP vaccine.
6 mos. to 18 mos.	2 doses of OPV. 3 doses of DTP vaccine.
18 mos. to 5 yrs.	3 doses each of OPV and DTP vaccine. 1 dose each of measles[1], rubella[2], and mumps[3] vaccines.
5 yrs. and older	3 doses each of OPV[4] and DTP[5] vaccine. 1 dose each of measles[1], rubella[2], and mumps[3] vaccines.

NOTES:

[1]**Measles:** Measles vaccine is required for each child 18 months old or older. The vaccination date for the measles vaccine must be during the calendar month of or after the first birthday and since January 1, 1968. A written physician-verified history of measles disease which shows the date of the illness will substitute for the measles vaccine requirements.

[2]**Rubella:** Rubella vaccine is not required after the 12th birthday. A history of rubella illness is not acceptable.

Mumps: As a part of the child's immunization record, a written physician-verified history of mumps disease which shows the date of the illness will substitute for the vaccine requirement. Effective September 1, 1984, children less than 13 years old are required to have received mumps vaccine or provide a written physician-verified history of mumps illness. On September 1 each following year, children one year older must also meet this requirement. By September 1, 1990, all children through 18 years old will be included. See the table below.

Mumps Vaccine Requirements by Effective Dates for Children 18 Months through 18 Years of Age In Child Care Facilities

Effective Dates	Ages in Years*
September 1, 1984	Thru 12
September 1, 1985	Thru 13
September 1, 1986	Thru 14
September 1, 1987	Thru 15
September 1, 1988	Thru 16
September 1, 1989	Thru 17
September 1, 1990	Thru 18

*Ages of children in child care facilities on the effective date.

Polio: At least three doses of oral polio vaccine (OPV) are required for all children, provided at least one dose has been received on or after the 4th birthday. A dose of OPV given during the calendar month before the 4th birthday will substitute for the dose on or after the 4th birthday. No further doses of OPV are required.

Some children or students may be enrolled who have received inactivated polio vaccine (IPV). These students are in full compliance when an initial series of four doses are completed and a booster dose within five years of the fourth dose has been received. A booster dose is required every five years thereafter.

Diptheria - Tetanus - Pertussis/Tetanus - Diphtheria: DPT/TD vaccine is required for all children. At least three doses of DTP and/or Td vaccine are required, provided at least one dose has been received on or after the 4th birthday. A dose of DTP or Td given during the calendar month before the 4th birthday will substitute for the dose on or after the 4th birthday.

Besides the minimum of three DTP or Td doses with one dose since the 4th birthday, children 12 years old and older must have a last dose within the past 10 years. (A Td booster is required 10 years after the administration of the immunization that meets the requirement for the "dose since the 4th birthday." Example: If the last dose of DTP was received at age five, the 10-year Td booster is due at age 15.)

An Annual Report of the Immunization Status by age group of all children must be submitted on the request of the Texas Department of Health.

APPENDIX IV
ALTERNATIVES TO PHYSICAL PUNISHMENT

1. Children should have good behavior recognized and encouraged.

2. Children should be taught by example through the use of fair and consistent rules. The atmosphere should be relaxed. Discipline should be relevant to the behavior involved.

3. Children should be supervised by people showing an attitude of understanding and firmness.

4. Children should be given clear directions and guidance on the child's level of understanding.

5. Children should be held firmly if their behavior will harm themselves or others.

6. Children should be redirected by stating alternatives when their behavior is unacceptable. (Example: "Blocks are for building, not throwing — try throwing this ball.")

7. Children should be helped to understand why their conduct is unacceptable and what is acceptable in a given situation.

COMMUNICABLE DISEASE CHART FOR SCHOOLS AND CHILD-CARE CENTERS

Your Health Department: _____

Phone: _____

CONDITION	INCUBATION PERIOD	EARLY SIGNS OF ILLNESS	EXCLUDE FROM ATTENDANCE [1]	READMISSION CRITERIA [2,3]	REPORTABLE DISEASE	NOTES FOR PREVENTION
Athlete's Foot	Unknown	Blisters and cracking of the skin of the feet, usually between the toes	No		No	Teach importance of hygienic care of feet
Chickenpox	10-21 days	Fever and rash consisting of blisters that may appear first on head, then spread to body. Usually 2 or 3 crops of new blisters that heal leaving scabs.	Yes	When all blisters have crusted over (but not longer than 1 week after onset of rash)	Yes	No vaccine available
Common Cold	1-3 days	Runny nose, watery eyes, general tired feeling	No, unless fever is present (See Fever)	When fever subsides	No	Teach importance of washing hands and covering mouth when coughing or sneezing
Diphtheria	2-5 days	Sore throat and fever, rapidly progressing to difficulty breathing and swallowing	Yes	See Footnote 2(A,B)	Yes	Vaccine available. If you suspect this disease immediately consult a physician
Fever		Oral temperature of 38°C (100.4°F) or greater	Yes	When fever subsides	No	
Gastroenteritis, Viral	Variable, usually 2-7 days	Stomachache, nausea, diarrhea (6 or more watery loose stools per day)	Yes	When diarrhea subsides	No	Teach importance of hand washing. Adult should supervise hand washing of preschool-age children
Giardiasis	4-14 days	Gradual onset of stomachache, bloating, and diarrhea. May recur several times over a period of weeks.	No		No	Treatment is recommended. Teach importance of hand washing. Can spread quickly in child care centers
Gonorrhea	3-5 days	**Male** — urethral discharge ("drip") with burning on urination. **Female** — May have no symptoms or may have vaginal discharge and abdominal pain, especially with menses	No		Yes	Teach junior and senior high school students about sexually transmitted diseases. Report suspected cases to health department or by calling the VD Hot Line: 1-800-227-8922
Head Lice (Pediculosis)	Eggs hatch in 7-10 days	Itching and scratching of scalp. Pinpoint white eggs (nits) on head that will not flick off.	Yes	When one medicated shampoo or lotion treatment has been given	No	Second shampoo or lotion treatment in 7-10 days is recommended. Teach importance of not sharing combs, hats, and coats
Hepatitis, Viral, type A	15-50 days, average 28 days	Gradual onset of slight fever, tired feeling, stomachache, nausea, or vomiting followed by jaundice. Young children may have mild case of diarrhea without jaundice	Yes	After 1 week from onset of illness	Yes	Teach importance of hand washing. Gamma globulin should be given to household contacts. If more than one case occurs in a child care center, gamma globulin should be considered for all children and parents involved
Hepatitis, Viral, type B	60-90 days	Gradual onset of fever, tired feeling, loss of appetite, followed by jaundice.	No		Yes	Neither cases nor carriers excluded from attendance. Teach importance of good hygiene and avoid contact with blood of recent cases or chronic carriers.
Herpes, Oral (cold sores)	First infection, 2-12 days	Blisters on or near lips that open and become covered with dark crust. Recurrences are common.	No		No	Teach importance of good hygiene. Avoid direct contact with sores.
Impetigo	Variable	Blisters on skin that open and become covered with yellowish crust. No fever.	Yes	When treatment begun	No	Keep lesions covered while in school. Teach importance of hand washing and keeping fingernails clean.
Influenza	1-3 days	Rapid onset of fever, headache, sore throat, cough.	Yes	When fever subsides	Yes	Vaccine available, but only recommended for children with certain chronic diseases.
Measles (Rubeola)	7-14 days	Runny nose, watery eyes, fever, cough. Blotchy red rash appears on 4th day.	Yes	After 4 days from appearance of rash. In an outbreak, unimmunized children should also be excluded for at least 4 days after last case occurs.	Yes	Vaccine available. Report suspect cases immediately to health department or by calling the Texas Immunization Hot Line: 1-800-252-9152
German Measles (Rubella)	14-21 days	Slight cold, swollen tender glands at back of neck. Changeable pink rash.	Yes	After 5 days from appearance of rash	Yes	Vaccine available. Report suspect cases immediately to health department or by calling the Texas Immunization Hot Line: 1-800-252-9152

Meningitis, Bacterial	2-10 days	Sudden onset of high fever, headache, and stiff neck, usually with some vomiting	Yes	See Footnote 2(A-B)	Yes	Depending on which bacteria are causing the illness, prophylactic antibiotics may be recommended for family members. Occasionally close contacts at a child care center are also treated.
Meningitis, Viral	2-10 days	Sudden onset of fever, headache, usually with some vomiting	Yes	See Footnote 2(A-B)	Yes	Teach importance of hand washing. Prophylactic antibiotics of no value.
Mumps	12-26 days	Swelling over jaw in front of one or both ears. Pain in cheeks made worse be chewing.	Yes	After 9 days from the onset of swelling	Yes	Vaccine available.
Pink Eye (Conjunctivitis)	1-3 days	Red eyes, usually with some discharge or crust on eyelids	Yes	See Footnote 2(A-B)	No	Teach importance of hand washing. allergic conjunctivitis is not contagious.
Pinworms	Variable, may be as long as 3-6 weeks	Perianal itching	No		No	Teach importance of hand washing.
Poliomyelitis (Polio)	3-21 days	Fever, headache, stomachache, stiff neck, usually with some vomiting. Often followed by paralysis.	Yes	See Footnote 2(A-B)	Yes	Vaccine available. Report cases immediately to health department or by calling the Texas Immunization Hot Line 1-800-252-9152.
Rocky Mountain Spotted Fever	3-10 days	Sudden onset of fever, chills, and severe headache. Rash consists of red spots beginning on wrists or ankles, progressing to the chest, palms, and soles.	No		Yes	Transmitted by tick bites. If you suspect this disease, immediately consult a physician.
Ringworm of the body	4-10 days	Slowly spreading flat, scaly ring-shaped spots on skin. The margins may be reddish and slightly raised.	No		No	Treatment is recommended. Keep lesions covered while in school.
Ringworm of the scalp	10-21 days	Slowly spreading, balding patches on scalp with broken-off hairs.	Yes	When treatment begun	No	Teach importance of not sharing combs, hats and coats.
Salmonellosis	1-3 days	Sudden onset of fever, abdominal pain, diarrhea, sometimes vomiting.	Yes	When diarrhea subsides	Yes	Teach importance of hand washing. Frequently a food borne infection.
Scabies	First infection: 1 month. Repeat infection: 2-5 days.	Small raised, red bumps or blisters on skin with severe itching.	Yes	When treatment begun	No	Careful examination of close contacts required to identify early infection.
Shigellosis	1-7 days	Sudden onset of fever, vomiting, and diarrhea.	Yes	When diarrhea subsides	Yes	Teach importance of hand washing. Can spread quickly in child care centers.
Streptococcal Sore Throat and Scarlet Fever	1-3 days	Fever, sore throat, often with enlarged tender lymph nodes in neck. Scarlet fever-producing strains of bacteria cause a fine red rash that appears 1-3 days after onset of sore throat.	Yes	After 24 hours from date antibiotic treatment begun	Yes	Teach importance of covering mouth when coughing or sneezing.
Tetanus	4-21 days	Painful muscular contractions — primarily of jaw and neck muscles. No fever.	No		Yes	Transmitted by contamination of a wound with bacterial spores. Vaccine available. If you suspect this disease, immediately consult a physician.
Tuberculosis, Pulmonary	4-12 weeks	Gradual onset, tiredness, loss of appetite, slight fever, failure to gain weight, cough.	Yes	After antibiotic treatment begun, AND a physician's certificate or health authority permit obtained	Yes	All classroom contacts should have TB skin tests. Antibiotic prophylaxis indicated for newly positive reactors.
Whooping Cough (Pertussis)	7-21 days	Low grade fever, runny nose, and cough lasting about 2 weeks, followed by paroxysmal coughing spells and "whoop" on inspiration.	Yes	After 7 days from date antibiotic treatment begun	Yes	Vaccine available. Unimmunized contacts should be immunized and receive antibiotic prophylaxis. Report suspect cases immediately to health department or by calling the Texas Immunization Hot Line 1-800-252-9152.

[1]The major criterion for exclusion from attendance is the condition's probability of spread from person to person. A child may have a nonexcludable illness yet require care at home or in a hospital.

[2]Children excluded from a school or child care center for a communicable disease may be readmitted by any one of the following methods:
(A) A written certificate from a physician.
(B) A permit issued by the local health authority.
(C) Fulfilling criteria listed under "Readmission Criteria."

[3]A school or child care center administrator may require a note from a parent or physician for readmission regardless of the reason for the absence.

Adopted by the undersigned pursuant to 25 TAC 97.5(c)(3) this 12th day of December 1983.

Robert Bernstein, M.D., F.A.C.P.
Commissioner of Health

TEXAS DEPARTMENT OF HEALTH

6.30 1/4/84

APPENDIX VI
SANITIZING PROCEDURES FOR FOOD SERVICE EQUIPMENT

Reusable food service equipment, including infant feeding equipment, must be properly washed and sanitized by one of the following methods:

Utensils must be completely immersed in hot water and maintained at a temperature of 170°F for not less than three minutes or 180°F for two minutes.

One and 1/4 teaspoons of chlorine bleach must be used for each gallon of water at lukewarm temperature during the final rinse.

One-half teaspoon iodine must be used for each gallon of water at lukewarm temperature.

Quaternary ammonium compounds or acid sanitizer compounds must be used according to directions on the officially approved label.

If utensils are machine washed, final rinse water must be at least 180°F.

Other methods may be used if approved by the local health department or the Texas Department of Health.

APPENDIX VII
CRIMINAL OFFENSES FROM THE TEXAS PENAL CODE

The following constitute criminal offenses included in the Texas Penal Code:

Title 5. Offenses Against the Person

Murder
Capital murder
Voluntary manslaughter
Involuntary manslaughter
Criminally negligent homicide
False imprisonment
Kidnapping
Aggravated kidnapping
Rape
Aggravated rape
Sexual abuse
Aggravated sexual abuse
Homosexual conduct
Public lewdness
Indecent exposure
Rape of a child
Sexual abuse of a child
Indecency with a child
Assault
Sexual assault
Aggravated assault
Aggravated sexual assault
Deadly assault on a peace officer
Injury to a child or an elderly individual
Reckless conduct
Terroristic threat
Aiding suicide
Tampering with consumer products

Title 6. Offenses Against the Family

Bigamy
Incest
Interference with child custody
Enticing a child
Criminal non support
Sale or purchase of a child
Solicitation of a child
Harboring a runaway child
Violation of a court order

Title 43. Public Indecency

Prostitution
Promotion of prostitution
Aggravated promotion of prostitution
Compelling prostitution
Obscene display or distribution
Obscenity
Sale, distribution, or display of harmful material to a minor
Sexual performance by a child